

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GERALD TUNNELL,
JOHN RAMOS,
LOUIS CORDOVA,
JOEL LARGE,

Plaintiffs,

v.

No. 12-cv-0463 JP/SMV

STATE OF NEW MEXICO, T. David Eisenberg,
Public Defender Department;
RANDY CHAVEZ, Public Defenders;
13TH JUDICIAL DISTRICT PUBLIC DEFENDERS,
individually and in their official capacities;

Defendants.

ORDER TO CURE DEFICIENCY

THIS MATTER is before the Court on Plaintiff Tunnell's [Civil Rights Complaint Pursuant to 42 U.S.C. § 1983] [Doc. 1] ("Complaint"). Plaintiff was incarcerated when he filed the complaint, and he has now been released. The Court determines that Plaintiff's filings are deficient as described herein. First, the Complaint identifies several individuals as Plaintiffs but is signed only by Plaintiff Tunnell. Complaint [Doc. 1] at 10. As a matter of federal practice, a pro se litigant may not represent another party, either as "next friend" or otherwise. *See Meeker v. Kercher*, 782 F.2d 153, 154 (10th Cir. 1986). In an action under § 1983, "a litigant may only assert his own constitutional rights or immunities." *United States v. Raines*, 362 U.S. 17, 22 (1960); and see *Cotner v. Hopkins*, 795 F.2d 900, 902 (10th Cir. 1986) ("The general rule . . . is that a plaintiff must assert his own constitutional rights.") Plaintiff Tunnell may not prosecute the claims of the other named Plaintiffs.

Furthermore, Plaintiff has not paid the \$350 civil filing fee or filed a motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915. Plaintiff Tunnell is directed to cure these deficiencies if he wishes to pursue his claims. Failure to cure these deficiencies within 30 days may result in the dismissal of the Complaint.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff cure the deficiencies designated above within 30 days from the date of this order;

IT IS FURTHER ORDERED that the Clerk is directed to mail to Plaintiff, together with a copy of this order, a copy of a civil Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge